

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAVID L. MEADOR,

Petitioner,

v.

Case No. CIV-06-0903 MCA/LAM

**LESLIE JOHNSON, Administrator,
Curry County Adult Detention Center,**

Respondent.

**ORDER GRANTING PETITIONER'S MOTION FOR LEAVE TO SUPPLEMENT
PETITIONER'S BRIEF (Doc. 44), ADOPTING MAGISTRATE JUDGE'S AMENDED
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION (Doc. 42), AND
DISMISSING PETITIONER'S AMENDED PETITION FOR WRIT OF HABEAS
CORPUS 28 U.S.C. § 2241 (Doc. 3) AND THIS CASE WITHOUT PREJUDICE**

THIS MATTER is before the Court on the Magistrate Judge's amended *Proposed Findings and Recommended Disposition* (Doc. 42), filed on November 16, 2007. No party has filed objections to the proposed findings and recommended disposition and the deadline for filing objections has passed. The Court has determined that it will adopt the Magistrate Judge's amended *Proposed Findings and Recommended Disposition* (Doc. 42); dismiss Petitioner's amended *Petition for Writ of Habeas Corpus 28 U.S.C. § 2241* (Doc. 3) and this case, without prejudice, for failure to exhaust available state court remedies; and deny Petitioner's *Motion for Declaratory Judgment* (Doc. 28). In addition, the Court has determined that it will grant Petitioner's *Motion for Leave to Supplement Petitioner's Brief* (Doc. 44), filed on November 16, 2007.

As an initial matter, the Court notes that Petitioner filed his *Motion for Leave to Supplement Petitioner's Brief* (Doc. 44), and a related *Supplemental Brief on Ex Post Facto* (Doc. 43), on

November 16, 2007, the same date that the Magistrate Judge filed her amended *Proposed Findings and Recommended Disposition* (Doc. 42); however, the *Motion for Leave to Supplement Petitioner's Brief* (Doc. 44) and the *Supplemental Brief on Ex Post Facto* (Doc. 43) were not docketed by the Clerk of the Court until November 19, 2007. In his motion, Petitioner asks the Court for leave to file a supplemental brief in support of his amended *Petition for Writ of Habeas Corpus 28 U.S.C. § 2241* (Doc. 3), and Petitioner filed his proposed *Supplemental Brief on Ex Post Facto* (Doc. 43) concurrently with his motion. Respondent failed to file a timely response in opposition to the motion which constitutes consent to grant the motion pursuant to D.N.M.LR-Civ. 7.1(b). Having reviewed the motion and relevant law, the Court has determined that it will grant the motion and consider Petitioner's supplemental brief in connection with its review of the Magistrate Judge's amended *Proposed Findings and Recommended Disposition* (Doc. 42). However, having done so, the Court concludes that Petitioner's supplemental brief, which is limited to the subject of whether Petitioner's state court conviction violated the ex post facto clause of the United States Constitution, provides no basis for altering the Court's decision to adopt the Magistrate Judge's amended *Proposed Findings and Recommended Disposition* (Doc. 42); dismiss Petitioner's amended *Petition for Writ of Habeas Corpus 28 U.S.C. § 2241* (Doc. 3) and this case, without prejudice, for failure to exhaust available state court remedies; and deny Petitioner's *Motion for Declaratory Judgment* (Doc. 28).

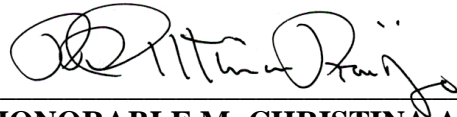
IT IS THEREFORE ORDERED that Petitioner's *Motion for Leave to Supplement Petitioner's Brief* (Doc. 44) is **GRANTED** and Petitioner's *Supplemental Brief on Ex Post Facto* (Doc. 43) is deemed filed with leave of Court.

IT IS FURTHER ORDERED that the Magistrate Judge's amended *Proposed Findings and Recommended Disposition* (Doc. 42) are hereby **ADOPTED** and Petitioner's amended *Petition for*

Writ of Habeas Corpus 28 U.S.C. § 2241 (Doc. 3) and this case are hereby **DISMISSED** without **prejudice** for failure to exhaust available state court remedies.

IT IS FURTHER ORDERED that Petitioner's *Motion for Declaratory Judgment* (Doc. 28) is **DENIED**.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "M. Christina Armijo", is written over a horizontal line.

HONORABLE M. CHRISTINA ARMIJO
UNITED STATES DISTRICT JUDGE